

United States District Court
STATE AND DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA

V.

SAMER OCHOA-BERNABE

CRIMINAL COMPLAINT

Case Number:

MS 11 219 JSK

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about May 10, 2011, in Faribault County, in the State and District of Minnesota, defendant(s)

an alien, who had previously been removed from the United States on or about October 17, 2001, subsequent to a conviction for an aggravated felony, namely, willful infliction of corporal injury, in the State of California on or about March 6, 1998, knowingly and unlawfully was found in the United States without obtaining permission from the Attorney General or the Secretary of Homeland Security to reapply for admission to the United States,

in violation of Title 8, United States Code, Section(s) 1326(a) and (b)(2).

I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me, and subscribed in my presence,

5/26/11
DateThe Honorable Jeffrey J. Keyes
UNITED STATES MAGISTRATE JUDGE

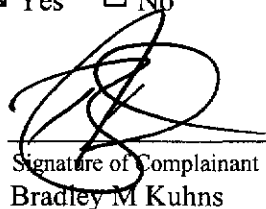
Name & Title of Judicial Officer

at

St. Paul, MN

City and State

Signature of Judicial Officer


Signature of Complainant
Bradley M Kuhns
U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement

SCANNED

MAY 27 2011

U.S. DISTRICT COURT ST. PAUL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF Bradley M. Kuhns

Bradley M. Kuhns, being duly sworn, deposes and states as follows:

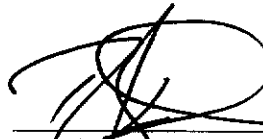
1. I have been employed with Immigration and Customs Enforcement (ICE) within the Department of Homeland Security (DHS) since April 2007. In August 2009, I was promoted to Deportation Officer.
2. As a Deportation Officer, my duties and responsibilities include overseeing the removal proceedings of aliens. I am also responsible for reviewing alien files (commonly known as "A files") in connection with the detention and release of aliens in ICE custody.
3. This Affidavit is based on my training, experience, personal knowledge and discussions with other law enforcement officers and agents directly involved in this investigation, and my review of official reports and documents related to this investigation.
4. This Affidavit is made for the purpose of establishing probable cause in support of a federal arrest warrant, and therefore contains only a summary of relevant facts. Based upon all the facts and information set forth in this Affidavit, I believe that probable cause exists to support that, on or about May 10, 2011, in Faribault County, in the State and District of Minnesota, Samer Abraham OCHOA-Bernabe unlawfully reentered and was found in the United States after having been previously removed, without having obtained the consent of the Attorney General or his successor, the Secretary of Homeland Security, to re-apply for admission to the United States, and that OCHOA-Bernabe's removal was subsequent to a conviction for commission of

an aggravated felony, in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2) and Title 6, United States Code, Sections 202 and 557.

5. On May 9, 2011, OCHOA-Bernabe was arrested in Faribault County, in the State and District of Minnesota, by a member of the Minnesota State Patrol. OCHOA-Bernabe was arrested for giving a false name to a police officer, speeding, driving without a valid driver's license and a window tint violation. OCHOA-Bernabe identified himself to the Minnesota State Trooper by giving a Mexican ID Card bearing the name Saul Gonzales.
6. On May 10, 2011, OCHOA-Bernabe was encountered in the Faribault County Jail by an ICE Immigration Enforcement Agent while performing Criminal Alien Program duties. OCHOA-Bernabe was administratively interviewed to determine alienage and removability. OCHOA-Bernabe admitted to having entered the United States without inspection or admittance. On May 10, 2011, an ICE hold was placed on OCHOA-Bernabe. On May 11, 2011, OCHOA-Bernabe was turned over to ICE custody.
7. On March 6, 1998, OCHOA-Bernabe was convicted of the felony offense of willful infliction of corporal injury in the San Mateo County Superior Court, at Redwood City, California in violation of California Penal Code 273.5 subdivision (a). On March 6, 1998, OCHOA-Bernabe was sentenced to 1 year incarceration.
8. OCHOA-Bernabe's immigration file indicates that he has been previously arrested and removed from the United States on one prior occasion. On October 17, 2001, OCHOA-Bernabe was removed from the United States to Mexico at the Nogales, AZ Port of Entry.

9. Law enforcement has confirmed through fingerprints contained in OCHOA-Bernabe's criminal history and immigration file that the individual named Samer Abraham OCHOA-Bernabe, referenced in those records is, in fact, the same person who is currently in ICE custody and was encountered on May 09, 2011, by the Minnesota State Patrol.
10. My investigation has revealed that OCHOA-Bernabe is a citizen and national of Mexico who makes no claim to United States citizenship or lawful permanent residence status in the United States.
11. My investigation has revealed that since his removal from the United States on October 17, 2001, OCHOA-Bernabe has not applied for, nor received, permission to enter the United States from the Attorney General, his successor, the Secretary of Homeland Security, or any other designated and authorized representative.

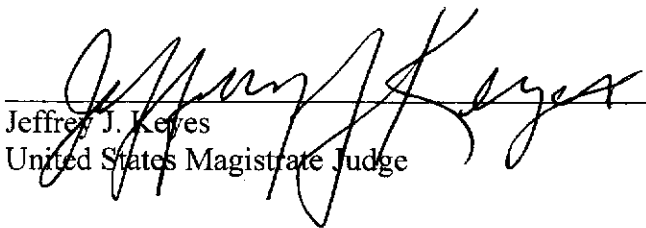
12. Based on these facts, I have reason to believe that Samer Abraham OCHOA-Bernabe unlawfully reentered and was found in the United States after removal, in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2) and Title 6, United States Code, Sections 202 and 557. Further Your Affiant Sayeth Not.



Bradley M. Kuhns, Deportation Officer
Immigration and Customs Enforcement

SUBSCRIBED and SWORN to Before Me

This 26th day of May, 2011.



Jeffrey J. Keves
United States Magistrate Judge